

SENATE BILL 2773

By Massey

AN ACT to amend Tennessee Code Annotated, Title 50;
Title 56; Title 63, Chapter 2 and Title 68, Chapter
11, relative to medical records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-2-102, is amended by deleting the section and substituting:

(a) For records only available in, or requested to be delivered in, paper format:

(1) The requester of the patient's records is responsible to the provider for the reasonable costs of copying and mailing the patient's records. Except for records involving workers' compensation cases, the reasonable costs of copying and mailing the patient's records must not exceed twenty dollars (\$20.00) for medical records five (5) pages or less in length and fifty cents (50¢) per page for each page copied after the first five (5) pages and the actual cost of mailing. A third-party provider of record copying and related services is subject to the reasonable cost limits contained in this section and shall not impose a charge or fee for those services in excess of the reasonable cost limits. The costs charged for reproducing records of patients involved in a workers' compensation claim are as defined in § 50-6-204. A healthcare provider shall not charge a fee for copying or notarizing a medical record when requested by the department pursuant to a complaint, inspection, or survey as set forth in § 63-1-117; and

(2) An increase in charges for copying and certifying medical records permitted by this section that is above those charges established by this section as it existed on January 1, 2010, does not apply to requests for medical records

made by the department of human services, and charges for copying and certifying medical records requests made by the department of human services remain the same as existed under this section as of January 1, 2010.

(b)

(1) For records available electronically:

(A) A healthcare provider that provides a requester copies of medical records via email or other digital means must do so at no cost to the requester; and

(B) A healthcare provider may send electronic copies of medical records that are too large to be sent via email or other digital means to a requester via a USB drive. The requester is responsible for paying for the cost of the USB drive and shipping.

(2) For purposes of this subsection (b):

(A) "Other digital means" includes zip files, cloud storage software or services, and peer-to-peer transfer; and

(B) "USB drive" means an external storage or optical disc drive that plugs into a computer's USB port.

(c)

(1) Upon request, the healthcare provider shall submit a notarized affidavit by the custodian of records certifying that the records provided in response to the request:

(A) Are true and correct copies of records in the custody of the affiant;

(B) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of and a business duty to record or transmit those matters;

(C) Were kept in the course of regularly conducted activity; and

(D) Were made by the regularly conducted activity as a regular practice.

(2) In addition to the charge for the copies of the record, the healthcare provider may charge up to twenty dollars (\$20.00) for the affidavit described in subdivision (c)(1), and the records submitted with that affidavit, and the affidavit qualify for the business records exception to the hearsay rule.

(d) This chapter does not supersede a provision of law that establishes specific costs for the reproduction, copying, or mailing of records.

(e) Payment of the costs described in this section may be required by the healthcare provider prior to the records being furnished. Upon payment of the costs described in this section, the patient or a patient's authorized representative has the right to receive the medical records without delay.

(f) In workers' compensation cases, a request for medical records must include a medical or anatomical impairment rating as required by § 50-6-246.

SECTION 2. Tennessee Code Annotated, Section 50-6-204, is amended by deleting subdivision (a)(1)(B) and substituting:

(B)

(i) For records only available in, or requested to be delivered in, paper format, a medical provider shall not charge more than ten dollars (\$10.00) for the first twenty (20) pages or less, and twenty-five cents (25¢) per page for each page after the first twenty (20) pages for medical reports, medical records, or

documents pertaining to medical treatment or hospitalization of the employee that are furnished pursuant to this subsection (a).

(ii)

(a) For records available electronically:

(1) A medical provider that provides a requester copies of medical records via email or other digital means shall do so at no cost to the requester; and

(2) A medical provider may send electronic copies of medical records that are too large to be sent via email or other digital means to a requester via a USB drive. The requester is responsible for paying for the cost of the USB drive and shipping.

(b) For purposes of this subdivision (a)(1)(B)(ii):

(1) "Other digital means" includes zip files, cloud storage software or services, and peer-to-peer transfer; and

(2) "USB drive" means an external storage or optical disc drive that plugs into a computer's USB port.

SECTION 3. Tennessee Code Annotated, Section 68-11-304, is amended by deleting subdivision (a)(2)(A) and substituting:

(2)

(A)

(i) The party requesting the patient's records is responsible for the reasonable costs of copying and mailing the patient's records.

(ii) The charges to a patient or an attorney authorized by the patient to review the patient's records must not exceed the reasonable costs for copying and the actual costs of mailing the records. The

reasonable costs must not include costs involved with the maintenance and storage of the records or costs that may be from or associated with providing the records to a party other than a patient or an attorney authorized by the patient to review the patient's records.

(iii)

(a)

(1) The following charges are presumed to be reasonable:

(A) For records only available in, or requested to be delivered in, paper format:

(i) A fee of eighteen dollars (\$18.00), which includes the first five (5) pages of the medical record;

(ii) Eighty-five cents (85¢) per page for the sixth page, up to and including the fiftieth page;

(iii) Sixty cents (60¢) per page for the fifty-first page up to the two hundred fiftieth page; and

(iv) Thirty-five cents (35¢) per page for all pages thereafter; and

(B) A fee for certifying medical records, not to exceed twenty dollars (\$20.00) for each record certified.

(2)

(A) For records available electronically:

(i) A hospital that provides a requester copies of medical records via email or other digital means shall do so at no cost to the requester; and

(ii) A hospital may send electronic copies of medical records that are too large to be sent via email or other digital means to a requester via a USB drive. The requester is responsible for paying for the cost of the USB drive and shipping.

(B) For purposes of this subdivision

(a)(2)(A)(iii)(a)(2):

(i) "Other digital means" includes zip files, cloud storage software or services, and peer-to-peer transfer; and

(ii) "USB drive" means an external storage or optical disc drive that plugs into a computer's USB port.

(b) The costs charged for reproducing records of patients involved in a workers' compensation claim are as defined in § 50-6-204.

(iv) In workers' compensation cases, a request for medical records must include a medical or anatomical impairment rating, if the record is available. Requests for those records are subject to the limits

on charges established by this section. Special additional or separate charges for including impairment ratings are not permitted.

SECTION 4. This act takes effect July 1, 2022, the public welfare requiring it.